

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ZEPHYRINUS EGBUONU #242109,)
)
Plaintiff,)
)
vs.) NO. 2:07-cv-998-WKW
)
CAPTAIN BARRETT, et al.,)
)
Defendants.)

MOTION TO SUBSTITUTE

COME NOW Defendants Alabama Department of Corrections, Commissioner Richard F. Allen, former Commissioner Donal Campbell, Associate Commissioner Terrance McDonnell, Warden Willie Rowell, Warden Bobby Barrett, and General Counsel Kim Thomas, by and through the undersigned counsel in the above-styled action, and file this Motion to Substitute an exhibit. Defendants state as follows:

1. That Defendants' Special Report was filed on or about December 21, 2007.
2. That Defendant Richard F. Allen was unavailable to sign his affidavit until after counsel for Defendants had filed the Special Report.
3. That Defendant Allen has now signed his affidavit.

Wherefore these premises considered, Defendants pray that this Honorable Court will substitute Defendant Allen signed affidavit for the unsigned affidavit that was submitted with the Special Report dated December 21, 2007.

Respectfully submitted,

/s/TARA S. KNEE

TARA S. KNEE

ASSISTANT ATTORNEY GENERAL

ASSISSTANT GENERAL COUNSEL

ADDRESS OF COUNSEL:

Alabama Department of Corrections
Legal Division
Post Office Box 301501
Montgomery, Alabama 36130-1501
(334) 353-3885

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of January, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following (or by U.S. Mail to the non-CM-ECF participants):

Inmate Zephyrinus Egbuonu
#27041-265
Federal Detention Center
P.O. Box 5010
Oakdale, LA 71463

/s/Tara S. Knee
Tara S. Knee
Assistant Attorney General
Assistant General Counsel

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ZEPHYRINUS EGBUONU, #27041-265,

Plaintiff,

vs.

CAPTAIN BARRETT, et al.,

Defendants.

2:07-CV-998-WKW

AFFIDAVIT

STATE OF ALABAMA X

X

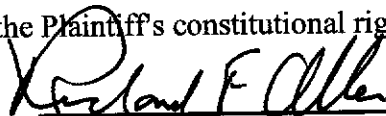
MONTGOMERY COUNTY X

Before me, the undersigned authority, a Notary Public, in and for said County and State of Alabama at Large, personally appeared Richard F. Allen, who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Richard F. Allen. I am presently employed as Commissioner of the Alabama Department of Corrections. I am over twenty-one (21) years of age.

I do not know the Plaintiff in this matter and to my knowledge have not had any contact with him. As Commissioner, I do not control the daily operation of the Kilby Correctional Facility or any of the various institutions of the Department, and had no involvement in the alleged incident.

I deny that I have violated the Plaintiff's constitutional rights in any way.



Richard F. Allen
Commissioner

SWORN TO AND SUBSCRIBED before me this 21 day of December, 2007.



NOTARY PUBLIC

MY COMMISSION EXPIRES



EXHIBIT 1